



Winston H. Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Coast Region



Gray Davis
Governor

Internet Address: <http://www.swrcb.ca.gov/rwqcb3>
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-3147 • FAX (805) 543-0397

NOTICE OF PUBLIC HEARING

CONSIDERATION OF ADOPTION OF
DRAFT NPDES PERMIT
WASTE DISCHARGE REQUIREMENTS ORDER NO. R3-2003-0009
NPDES PERMIT NO. CA0003751

ISSUED TO PACIFIC GAS & ELECTRIC COMPANY
DIABLO CANYON NUCLEAR POWER PLANT
SAN LUIS OBISPO COUNTY

Starting at 1:00 p.m., Thursday, July 10, 2003
Regional Board Offices
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

IMPORTANT: WRITTEN SUBMISSIONS ARE DUE JUNE 9, 2003

.....

For additional information please contact **Michael Thomas** at: (805) 542-4623 or email him at mthomas@rb3.swrcb.ca.gov or call **Gerhardt Hubner** at (805) 542-4647. Please bring this notice to the attention of any persons known to you who would be interested in this matter.

A copy of this Notice and the NPDES permit that is the subject of the remand, the fact sheet and all submissions to the Regional Board may be reviewed and copied at the office of the Central Coast Regional Water Quality Control Board, **895 Aerovista Place, Suite 101, San Luis Obispo 93401**, on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

.....

SUBJECT OF NPDES PERMIT HEARING

The California Regional Water Quality Control Board, Central Coast Region, proposes to reissue waste discharge requirements (NPDES Permit No. CA0003751) (draft NPDES Permit) including effluent limitations regulating discharges to waters of the Pacific Ocean from Pacific Gas & Electric Company's Diablo Canyon Nuclear Power Plant in San Luis Obispo County (DCPP). The draft NPDES Permit incorporates by reference a consent judgment and form of grant of conservation easement approved by the Board at their meeting on March 23, 2003. The **oral part of the hearing**, will begin at **1:00 p.m. on July 10, 2003 at the Regional Board Offices, 895 Aerovista Place, Suite 101, San Luis Obispo.**

PROCEDURAL LAW AND REGULATIONS

The hearing will be conducted pursuant to Title 23 California Code of Regulations (CCR) sections 648 through 648.8 and Government Code sections 11400 through 11470.50 (Administrative Procedure Act, Administrative Adjudication: General Provisions).

DESIGNATION OF PARTIES

Pursuant to Title 23 CCR section 648.1, parties to this hearing are **Regional Board staff, Pacific Gas & Electric Company (Discharger), the Santa Lucia Chapter of the Sierra Club, and acting jointly as a single Party, San Luis Obispo Mothers for Peace and California Earthcorps.** Parties will have an opportunity to present written evidence and legal argument before the hearing and will have an opportunity to cross-examine witnesses and make closing statements during the hearing. Anyone who is not a Party but wishes to submit evidence and cross-examine witnesses should contact one of the designated Parties and make a joint presentation.

COMMENTS BY NON-PARTIES

All interested persons, who have not been designated as parties may present comments to the Regional Board.

A comment is a non-evidentiary statement. It may include (1) the policy views and position of the speaker, (2) non-expert analysis of evidence that already has been presented, or (3) argument concerning the contents of draft documents. Comments may also include data regarding the draft NPDES Permit. Persons who wish to make comments may do so, subject to the following provisions:

Interested persons are encouraged to submit **written comments**. Written comments must be received by the Regional Board by **Monday, June 9, 2003**. Written comments must be addressed to the Regional Board at the address above, attention Michael Thomas. Unless there is a showing of good cause for late submission satisfactory to the Board Chair, written comments received after the due date will not be considered by the Board and will not be included in the Administrative Record.

Interested persons may make oral comments at the hearing on **July 10, 2003**. Each person's time for oral comments will be limited to **three minutes**. Comments shall be confined to the draft NPDES Permit and only to matters within the Board's jurisdiction. The Board does not have jurisdiction over the use and disposal of radioactive materials.

Persons making comments will not be sworn or asked to affirm the truth of their statements. At the discretion of the Chair, questions may be addressed to persons making only comments for the purpose of clarifying their statements. However, such persons shall not be subject to cross-examination and may not cross-examine hearing witnesses or interested parties.

HEARING PARTICIPATION BY PARTIES

Parties will submit evidence and legal argument and participate in cross-examination in the hearing only in compliance with the following procedures. Submissions by Parties shall be confined to issues

Notice of Hearing

July 10, 2003

NPDES Permit Diablo Canyon Nuclear Power Plant

relevant to the draft NPDES permit and only matters within the Board's jurisdiction. The Board does not have jurisdiction over the use and disposal of radioactive materials.

Direct Testimony, Evidence and Argument

Parties shall **submit to the Regional Board and other Parties** (unless otherwise noted) so they are **received on or before Monday June 9, 2003**:

1. Sixteen copies of each party's direct testimony and supporting legal and policy arguments. Testimony may include expert opinions and analysis. Testimony may also include analysis of studies, reports and scientific literature. Staff's testimony may be in the form of a staff report.
2. Sixteen copies of exhibits each party intends to refer to at the hearing. Reduced sized copies of large maps or illustrations may be submitted. Visual or audio aids (e.g., slides, video tapes, or Power Point presentations) that will be used to aid with summary presentations or arguments at the hearing need not be provided. Visual/audio aids may only be used at the hearing to summarize a party's direct testimony, legal argument, or policy argument, as submitted by the due date. Visual/audio aids shall not be used to present information that was not submitted by the due date.
3. Sixteen copies of a list of documents or evidence, **other than** testimony, each party wants to enter into the record.
4. Sixteen copies of excerpts of documents or evidence, **other than** testimony, from the existing administrative record or new submissions that each party refers to in its testimony or legal argument so that the Board members can easily refer to the relevant reference.
5. To the Regional Board only one copy of each document, study, report, audio tape, video tape or other evidence, each party would like added to the Administrative Record. Upon request of another party, each party shall provide a copy of any document, study, report, or tape to the requesting party.

If provision of sixteen copies of items 1. through 4 is too burdensome for a party, this requirement may be waived by the Executive Officer upon request, which must be made not later than **Monday June 2, 2003**.

Absent a showing of good cause satisfactory to the Chair, direct testimony, evidence, arguments and exhibits that do not comply with the above requirements may not be admitted.

Rebuttal Evidence and Argument

Rebuttal testimony, other evidence and legal arguments shall be limited to responses to direct testimony, evidence and legal arguments offered by other Parties. Rebuttal is not an opportunity to raise new issues. The Chair will have the discretion to strike any rebuttal testimony, evidence or legal argument that does not comply with this requirement.

Parties shall **submit to the Regional Board and other Parties** (unless otherwise noted) so that **it is**

Notice of Hearing

July 10, 2003

NPDES Permit Diablo Canyon Nuclear Power Plant

received on or before **Monday, June 23, 2003:**

(The same details regarding direct evidence and argument, in the items above apply to rebuttal evidence and argument.)

1. Sixteen copies of each party's rebuttal testimony and supporting legal and policy arguments.
2. Sixteen copies of rebuttal exhibits each party intends to refer to at the hearing.
3. Sixteen copies of a list of documents or evidence, other than testimony, each party wants to enter into the record by way of rebuttal evidence.
4. Sixteen copies of excerpts of documents or evidence, other than testimony, from the existing administrative record or new submissions that each party refers to in its rebuttal testimony or legal argument so that the Board members can easily refer to the relevant reference.
5. One copy, to the Regional Board only, of each document, study, report, audio tape, video tape or other evidence, each party would like added to the Administrative Record as rebuttal evidence. Upon request of another party, each party shall provide a copy of any document, study, report, or tape to the requesting party.

If provision of sixteen copies of items 1. through 4. is too burdensome for a party, this requirement may be waived by the Executive Officer upon request, which must be made not later than **Wednesday June 18, 2003**.

Submissions to the Regional Board shall be addressed to:

Mr. Michael Thomas
Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
Fax: (805) 543-0397
Phone: (805) 542-4623
E-mail: mthomas@rb3.swrcb.ca.gov

Submissions to Discharger shall be addressed to:

Mr. John Busterud
Pacific Gas and Electric Company
77 Beale Street (B30a)
San Francisco, CA 94105
Phone: 415-973-6617
Fax: 415-973-0516
email: jwbh@pge.com

Notice of Hearing
July 10, 2003
NPDES Permit Diablo Canyon Nuclear Power Plant

Submissions to Santa Lucia Chapter of the Sierra Club shall be addressed to:

Mr. Peter Wagner
Santa Lucia Chapter of the Sierra Club
2650 Maple Avenue
Morro Bay, CA 93442
Phone: (805) 771-8642
E-mail: cpwags@charter.net

Submissions to San Luis Obispo Mothers for Peace shall be addressed to:

Ms. Rochelle Becker
San Luis Obispo Mothers for Peace
P.O. Box 164
Pismo Beach, CA 93448
Fax: (805) 925-1640
Phone: (805) 773- 3881
E-mail: rochelle489@charter.net

Submissions to California EarthCorps shall be addressed to:

Mr. Don May
California EarthCorps
4927 Minturn Avenue
Lakewood CA 90712
E-mail: earthcorps@earlink.net

ADDITIONAL PROCEDURES BEFORE ORAL HEARING

Regional Board legal counsel may provide written legal advice to the Board at any time. The Regional Board is required by federal regulations to prepare written responses to comments no later than the date the NPDES Permit becomes final. (40 C.F.R. section 124.17.) Thus, staff may prepare responses to comments and evidence submitted by the Parties and submit a copy to the **Board members and other Parties at any time before or during the hearing**. Parties may submit to the Board and other Parties written response to comments by non-parties not later than **Thursday July 3, 2003**. Parties may use part of their oral presentation at the July 10 hearing to respond to public comments and the staff response to comments and analysis of evidence. Board members may request written responses to their questions prior to the oral hearing and may ask questions anytime during the hearing.

CONDUCT OF HEARING

All witnesses who have submitted written direct testimony shall be present at the hearing and shall, under oath, affirm their written testimony.

Each party's representatives will have an opportunity to present a summary of the party's direct and rebuttal testimony. The summary need not be presented by a witness. After each party completes its

Notice of Hearing
July 10, 2003
NPDES Permit Diablo Canyon Nuclear Power Plant

testimony summary and any legal arguments, each of that party's witness will be subject to cross-examination by all other parties.

After all summaries of direct testimony and cross-examination are complete, non-parties will have an opportunity to make comments.

After non-parties complete comments, all parties will have an opportunity to present closing statements.

The following time limitations will apply unless modified by the Regional Board Chair at the time of the hearing:

Regional Board staff, Discharger, and Santa Lucia Chapter of the Sierra Club will each have a total of **40 minutes** to summarize direct and rebuttal testimony and other evidence submitted in advance and to cross-examine other party's witnesses. San Luis Obispo Mothers for Peace and California EarthCorps will jointly have **40 minutes** for the same purpose. Each party may allocate their 40 minutes as they choose, as long as they do not exceed the total allocation.

Each party will have an additional **5 minutes** for closing statements in addition to any left over time from the initial 40 minute allocation.

Board members' and Board legal counsel's questions are in order at any time but they will be asked to hold their questions until the end of each party's presentation in order to facilitate measuring the time allocation. The Chair may rule inadmissible or out-of-order testimony and cross-examination that is irrelevant, repetitive, or disruptive of the orderly conduct of the hearing.

The Board may continue the hearing and may require submission of additional comments, evidence or argument at their discretion.

ORDER OF PRESENTATION

1. Regional Board staff summary of direct and rebuttal testimony, evidence and legal argument.
2. Cross-examination of staff witnesses by other parties.
3. Discharger summary of direct and rebuttal testimony, evidence and legal argument.
4. Cross-examination of Discharger's witnesses by other parties.
5. Santa Lucia Chapter of the Sierra Club summary of direct and rebuttal testimony, evidence and legal argument.
6. Cross-examination of Santa Lucia Chapter of the Sierra Club witnesses by other parties.
7. San Luis Obispo Mothers for Peace and California EarthCorps summary of direct and rebuttal testimony, evidence and legal argument.

8. Cross-examination of San Luis Obispo Mothers for Peace and California EarthCorps witnesses by other parties.
9. Opportunity for non-parties to make comments.
10. Closing statements by Regional Board staff, Discharger, Santa Lucia Chapter of the Sierra Club, and joint parties San Luis Obispo Mothers for Peace and California EarthCorps.

There will be a number of short breaks at the discretion of the Chair. If necessary, the Chair may call for a dinner break.